

REMARKS

Claims 1 to 19 are now pending.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants thank the Examiner for considering the Information Disclosure Statement, 1449 paper, and cited references filed November 19, 2004.

Applicants thank the Examiner for accepting the drawings filed September 20, 2004.

Claims 1 to 10, 12, and 14 to 19 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,463,372 (the “Yokota” reference).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

Claim 1 relates to a system for triggering at least one restraining device and provides for “at least one pedestrian-impact sensor for transmitting a second signal.” Claim 1 further provides for a processor “adapted to trigger the at least one restraining device as a function of a combination of [a first signal of at least one non-pedestrian-impact sensor] and [the] second signal[.]”

The Office Action asserts that the text at column 10, lines 41 to 67 of the “Yokota” reference discloses a pedestrian-impact sensor. However, the referenced section provides for collision *predicting* sensors, which are not based on a contact, for example, between a vehicle and an object. The non-contact sensors *do not sense an impact* of any kind. Therefore, they are not impact-sensors. In particular, they are not pedestrian-impact sensors. Indeed, any review of the “Yokota” reference makes plain that it does not identically disclose (or even suggest) a pedestrian-impact sensor.

Furthermore, the Office Action asserts that the text at column 8, lines 40 to 47 discloses a processor that is adapted to trigger a restraining device as a function of a combination of signals. However, the referenced section refers to an ECU which determines correcting amounts for the operation of, e.g., an occupant restraining means based on signals from a seating information detecting means 80. While the correcting amounts may be determined, these signals are not used for *triggering* the occupant restraining means. It is therefore respectfully submitted that the “Yokota” reference does not identically disclose (or even suggest) a processor adapted to trigger at least one restraining device as a function of a combination of two signals, and, as set forth above, especially not as a function of signals from both a non-pedestrian-impact sensor and a pedestrian-impact sensor.

Therefore, the “Yokota” reference does not identically disclose (or even suggest) each feature of claim 1 as presented, so that it does not anticipate claim 1 as presented. Claims 2 to 10, 12, and 14 to 19 ultimately depend from claim 1 and are therefore allowable for the same reasons as claim 1 as presented.

Claim 11 was rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the “Yokota” reference and U.S. Patent No. 6,487,482 (the “Mattes” reference).

Claim 11 ultimately depends from claim 1 and is therefore allowable for essentially the same reasons as claim 1, since any review of the secondary reference makes plain that it does not cure the critical deficiencies of the primary reference.

Claim 13 was rejected under 35 U.S.C. § 103(a) as unpatentable over the “Yokota” reference.

Claim 13 ultimately depends from claim 1 and is therefore allowable for essentially the same reasons as claim 1.

As further regards all of the obviousness rejections, to reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there

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must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Since the references relied upon do not disclose or suggest all of the features of claims 11 and 13 as explained above, it is respectfully submitted that claims 11 and 13 are allowable.

Accordingly, claims 1 to 19 are allowable.

Conclusion

In view of the foregoing, it is respectfully submitted that all of claims 1 to 19 are allowable. It is therefore respectfully requested that the rejections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

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